

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 17-20451

Hon. Victoria A. Roberts

v.

KENNETH CHUN,

Defendant.

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**ORDER FOR PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION**

On October 16, 2017, Kenneth Chun filed a motion for a hearing to determine his competency to stand trial. In response, the Court appointed Dr. George Fleming to complete an examination of Mr. Chun under 18 U.S.C. § 4247(b). In light of the opinion of Dr. Fleming, the parties agreed that Mr. Chun would be hospitalized for a reasonable period of time – not to exceed four months - to determine if there was a substantial probability that in the foreseeable future, Mr. Chun would attain the capacity to permit the proceedings to go forward. 18 U.S.C. §4241(d).

Mr. Chun was committed to the U.S. Medical Center for Federal Prisoners, Springfield Missouri, from April 2, 2018 until the Court ordered his release on August 6, 2018. This release was based on the Certificate of Competency signed by M.D. Smith, Warden of the Medical Center; the Warden certified that Mr. Chun is able to understand the nature and consequences of the proceedings against him and assist in the defense of the claims brought against him by the United States.

The defense disagrees with this certification. It asks the Court to conduct a hearing to determine mental competency. The defense says “reasonable cause” still exists to believe that Mr. Chun is incompetent to stand trial. 18 U.S.C. §4242(a). The Government disagrees with the defense.

Before holding a hearing, the Court believes it would benefit from an updated evaluation of Mr. Chun by Dr. Fleming.

Accordingly, under the Insanity Defense Reform Act of 1984, 18 U.S.C. §§ 4241-4247:

1. Chun is ordered to be evaluated by Dr. George R. Fleming. The psychiatric or psychological evaluation is to be completed in a reasonable time but not exceeding 30 days under 18 U.S.C. § 4247(b).
2. Dr. Fleming will prepare, as soon as practical, a written report that includes:  
(1) Chun's history and present symptoms; (2) description of the psychiatric, psychological, and medical tests that were employed and their results; (3) Dr. Fleming's findings; and (4) Dr. Fleming's opinions concerning (a) diagnosis; and (b) whether Chun suffers from a mental disease or defect which renders him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.
3. Dr. Fleming is specifically requested to explain why, and to detail the factual information he relies on, in concluding that Chun is or is not able to: (a) understand the nature and consequences of the proceedings against him, or (b) to assist properly in his defense.

4. Dr. Fleming must promptly file the written report with the Court and provide copies to defense counsel and the attorney for the Government.
5. Dr. Fleming will be compensated under the Criminal Justice Act.
6. A competency hearing will be conducted after receipt of Dr. Fleming's written report. The hearing set for November 7, 2018 is adjourned.
7. The period beginning with the filing of Chun's Motion on August 21, 2018 and ending with the conclusion of the competency hearing, which will take place after the Court and parties receive Dr. Fleming's written report, is deemed excludable delay under the Speedy Trial Act, 18 U.S.C. §§ 3161 (h)(1)(A).

IT IS ORDERED.

S/Victoria A. Roberts

Hon. Victoria A. Roberts

United States District Judge

Dated: October 30, 2018